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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/554,227

10/25/2005

Marc Andre Peters

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EXAMINER

BHATIA, AJAY M

ART UNIT

PAPER NUMBER

2445

MAIL DATE

DELIVERY MODE

10/20/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/554,227	<b>Applicant(s)</b> PETERS ET AL.	
	<b>Examiner</b> AJAY BHATIA	<b>Art Unit</b> 2445	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/27/2007</u> .  | 6) <input type="checkbox"/> Other: _____                          |

***Information Disclosure Statement***

In reviewing the references cited 12/27/2007, Document 6, is incomplete and missing pages. The other documents provided are considered.

***Claim Objections***

Claims 1-6, 8, 9, and 12 are objected to because of the following informalities:  
Applicant has used abbreviation with first stating what the abbreviation stand for.  
Appropriate correction is required.

***Oath/Declaration***

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:  
It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be "material to patentability as defined in 37 CFR 1.56."

Applicant has limited the oath/declaration to 1.56(a) which is incorrect. A new oath/declaration is required.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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Claims 6-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The present invention is directed to Software which is a not a statutory subject matter see MPEP § 2106.01.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by “Share it!” (IST-2000-28703) publicly available 11/30/2002.

For claim 1, “Share it” teaches, a CE (“Share it”, page 12, set top box) apparatus having a network connection for a P2P (“Share it”, page 15, p2p) network, and having an operational mode for querying the network about specific content recorded from a broadcast and for presenting multiple identical ones among a plurality of query results as a single item. (“Share it”, page 15 search, page 16, content with CRID, page 19, record, page 26, record broadcast)

For claim 2, “Share it” teaches, the CE apparatus of claim 1, wherein each different one of the plurality of query results is characterized by a respective identifier comprised in recorded metadata. (“Share it”, page 16, metadata, page 73, search group)

For claim 3, "Share it" teaches, the CE apparatus of claim 2, wherein the respective unique identifier comprises a respective CRID. ("Share it", page 16, CRID)

For claim 4, "Share it" teaches, the CE apparatus of claim 1, comprising a digital recorder for recording broadcast content. ("Share it", page 19, record)

For claim 5, "Share it" teaches, the CE apparatus of claim 1, having a further operational mode for downloading the specific content from the P2P network. ("Share it", page 16, content transfer)

For claim 6, "Share it" teaches, software for being installed on a networked-enabled CE ("Share it", page 12, set top box) apparatus for enabling to participate in a P2P ("Share it", page 15, p2p) network, the software rendering the apparatus operational for querying the network about specific content recorded from a broadcast and for presenting multiple identical ones among a plurality of query results as a single item. ("Share it", page 15 search, page 16, content with CRID, page 19, record, page 26, record broadcast)

For claim 7, "Share it" teaches, the software of claim 6, operative to differentiate among the query results based on content identifiers in metadata. ("Share it", page 44, metadata)

For claim 8, “Share it” teaches, the software of claim 7, wherein the content identifiers are based on CRIDs. (“Share it”, page 16, content with CRID)

For claim 9, “Share it” teaches, the CE apparatus of claim 1, wherein for the single item the multiple identical ones among the plurality of query results are counted. (“Share it”, page 16, content with CRID, pages 73-74, query results, groups)

For claim 10, “Share it” teaches, a method for use on a Peer-to-Peer (“Share it”, page 15, p2p) network, the method comprising enabling to query the network about specific content recorded from a broadcast and to present multiple identical ones among a plurality of query results as a single item. (“Share it”, page 15 search, page 16, content with CRID, page 19, record, page 26, record broadcast)

For claim 11, “Share it” teaches, the method of claim 10, wherein each different one of the plurality of query results is characterized by a respective identifier comprised in recorded metadata. (“Share it”, page 44, metadata)

For claim 12, “Share it” teaches, the method of claim 11, wherein the respective unique identifier comprises a respective CRID. (“Share it”, page 16, content with CRID)

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For claim 13, "Share it" teaches, the method of claim 10, comprising counting, for the single item, the multiple identical ones among the plurality of query results. ("Share it", page 16, content with CRID, pages 73-74, query results, groups)

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached Notice of references cited (if appropriate).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AJAY BHATIA whose telephone number is (571)272-3906. The examiner can normally be reached on M, T, H, F 9:00-3:30, Also please fax interview requests to 571-273-3906.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ajay Bhatia/

Examiner, Art Unit 2445